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ISZUREE IBRAHIM v. MAJLIS MESYUARAT KERAJAAN NEGERI PULAU PINANG & ORS AND ANOTHER CASE

HIGH COURT MALAYA, PULAU PINANG
COLLIN LAWRENCE SEQUERAH JC
[JUDICIAL REVIEW NO: 25-127-11-2014 & 25-2-01-2015]
B 22 JANUARY 2016

ADMINISTRATIVE LAW: *Exercise of administrative powers – Decision – Decision of State Authority to revoke applicant's appointment as council member – Whether appointment of council member at pleasure of State Authority – Whether applicant could be removed as council member at sole discretion of State Authority – Whether applicant should be accorded right to be heard – Whether power to appoint included power to remove or dismiss – Whether applicant's removal from local council's permanent committees and ad hoc meetings tainted with procedural impropriety – Local Government Act 1976, ss. 10(1) and 10(4)*

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The applicant was appointed as a Council Member of the Majlis Perbandaran Pulau Pinang, ('the second respondent in the 2014 case'). As a council member, the applicant was appointed to sit on various committees and sub-committees. However, Majlis Mesyuarat Kerajaan Negeri Pulau Pinang ('the first respondent in the 2014 case') removed the applicant from sitting E in the second respondent in the 2014 case's permanent committee, ad-hoc meetings and technical meetings. Dissatisfied, the applicant filed an application for judicial review ('2014 case') *vide* encl. 5 to challenge his removal. As soon as the 2014 case cause papers were served on the respondents, the Setiausaha Kerajaan Negeri Pulau Pinang ('the second F respondent in the 2015 case') demanded that the applicant withdraw the 2014 case. The applicant, however, refused to comply with the demand to withdraw the 2014 case. Therefore, the second respondent in the 2014 case ('local council') informed the applicant that the first respondent in the 2014 case ('State Authority') had decided to terminate the applicant's appointment G as a council member pursuant to s. 10(4) of the Local Government Act 1976 ('Act'). The applicant was not given any show cause letter nor accorded a hearing before the decision to remove him as a councillor was made. This led to the applicant filing encl. 4 ('2015 case') to challenge the decision to remove him as a councillor. The issues that arose for determination, *inter alia*, were (i) whether the applicant, having been appointed as a council H member of the local council at the sole discretion of the State Authority by virtue of s. 10(1) of the Act, could be removed as a council member at the sole discretion of the State Authority pursuant to s. 10(4) of the LGA without any reasons being assigned and without the right to be heard; (ii) whether the power to appoint included the power to remove or dismiss; and (iii) whether I in the absence of any provision which provided for a right to be heard, the common law principle of natural justice that no one was to be condemned unheard could be read into the statute.

Held (dismissing encls. (4) and (5) with costs):

(1) The appointing authority has the power to appoint, it also has the power to retract for no other reason than the practical consideration that the circumstances are such that the relationship has simply broken down and that such a power was necessary in order for the appointing authority to continue discharging its duties in the manner expected of it. Therefore, as the applicant was appointed and held his position as councillor at the pleasure of the State Authority, his removal was also at its sole discretion. Further, in light of s. 10(1) and (4) of the Act, the removal of councillors from committees also fall within the purview of the State Authority. (paras 67, 68 & 73)

(2) Local councillors are appointed for a fixed term of one year and may be reappointed at the discretion of the State Authority. State Governments however may and could be dissolved at any point of time. Should there be a change of State Government mid-way through the appointment period of a councillor, the councillor cannot insist on continuing as a councillor until his term expires as the new State Government would have the absolute discretion to appoint new councillors. Therefore, as the councillors' position are at the pleasure of the State Government, the councillor's appointment may be revoked at will without any reason or without any need to give the councillor any right to be heard. Should the position be otherwise, this would ensue in utter chaos and mayhem to the practical workings and administration of State and Local Governments. (paras 70 & 71)

(3) Applying the maxim expression *unius est exclusio alterius* which means the expression of one thing is the exclusion of the other, the Act although containing various express provisions regarding the right to be heard in respect of various other matters, remains silent as to the right to be heard in respect of the revocation of a councillor or removal as a committee member. This meant that Parliament intended that no such right was to be made available to a councillor. The maxim *expressio unius est exclusio alterius* is a ground for the exclusion of natural justice. (para 75)

(4) As the applicant has been legitimately removed as a councillor, the decision to remove him from all the second respondent's permanent committees, ad hoc meetings and all technical meetings was not tainted with procedural impropriety nor did it infringe the principles of natural justice or was illegal or tainted as being unreasonable in the *Wednesbury* sense. (para 76)

Case(s) referred to:

Ambank (M) Bhd v. Menteri Sumber Manusia & Anor And Other Appeals [2014] 1 LNS 686 CA ***(refd)***

Brown v. Dagenham Urban District Council (1929) 1 KB 737 ***(refd)***

Counsel for Civil Service Unions and Others v. Minister for the Civil Service [1985] 1 AC 374 ***(refd)***

Cooper v. Wandsworth Board of Works (1863) 14 CB NS 180 ***(refd)***
Darahman Ibrahim & Ors v. Majlis Mesyuarat Kerajaan Negeri Perlis & Ors [2008] 4 CLJ 538 CA ***(refd)***
Dato' Seri Anwar Ibrahim v. Perdana Menteri, Malaysia & Anor [1999] 1 CLJ 621 HC ***(refd)***
Hj Ariffin v. Government of Pahang [1968] 1 LNS 45 FC ***(refd)***
Ketua Pengarah Kastam v. Ho Kwan Seng [1975] 1 LNS 72 FC ***(refd)***
Lai Cheng Lim v. The City Council of George Town, Penang [1959] 1 LNS 46 HC ***(refd)***
Malaysia Airline System Bhd v. Wan Sa'adi Wan Mustafa [2015] 1 CLJ 295 FC ***(refd)***
McManus v. Bowes & Ors [1938] 1 KB 98 ***(refd)***
Metramac Corporation Sdn Bhd v. Fawziah Holdings Sdn Bhd [2006] 3 CLJ 177 FC ***(refd)***
Pendaftar Pertubuhan v. Datuk Justine Jinggut [2013] 2 CLJ 362 FC ***(refd)***
Ridge v. Baldwin [1964] AC 40 ***(refd)***
S Kulasingam & Anor v. Commissioner of Lands, Federal Territory & Ors [1982] CLJ 65; [1982] CLJ (Rep) 314 FC ***(refd)***
Sabdin Ghani v. Musa Hj Aman [1993] 2 CLJ 109 HC ***(refd)***
Universiti Teknikal Malaysia Melaka lwn. Prof Madya Md Noah Jamal [2014] 8 CLJ 1034 CA ***(refd)***

Legislation referred to:
Administration of the Law of the Religion of Islam Enactment 1956, s. 35
Civil Law Act, s. 3(1)
Customs Act 1967, s. 90(4)
Federal Constitution, art. 43(5)
Industrial Relations Act 1967, s. 20
Interpretation Acts 1948 and 1967, ss. 47, 94
Local Government Act 1976, ss. 10(1)(b), (4), 16, 28, 142(2), 143(3), 144(3)
Local Government Act 1894 [UK], ss. 5(1)
Lunacy Act 1890 [UK], s. 276

Other source(s) referred to:
MP Jain, *Administrative Law of Malaysia and Singapore*, 4th edn, p 250

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Reported by Sandra Gabriel

JUDGMENT

Collin Lawrence Sequerah JC:

Introduction

[1] At the outset, it was impressed upon me by learned counsel for all parties concerned that the matter for consideration and determination before this court is without precedent. There are two separate applications. By agreement of all parties it was decided to hear both applications together.

[2] By way of encl. (5) in Case No: 25-127-11-2014, the applicant's sought for, *inter alia,* the following;

(a) for an order that the letter from the second respondent dated 26 September 2014 and the decision of the first respondent made on 25 September 2014 which decided that the applicant be removed from all the second respondent's permanent committees and that all of the applicant's funds be frozen be quashed by way of a *certiorari*;

(b) for an order that the letter from the second respondent dated 29 September 2014 and the decision of the first respondent made on 25 September 2014 which decided that the applicant be removed from all the second respondent's permanent committees, ad-hoc meetings and all technical meetings/discussion and that all of the applicant's funds be frozen with immediate effect be quashed by way of a *certiorari*.

[3] By way of encl. (4) in Case No: 25-2-01-2015 the applicant sought for, *inter alia,* the following;

(a) for an order that the letter from the second respondent dated 27 November 2014 and the decision of the first respondent made on 26 November 2014 which decided that the appointment of the applicant as a Council Member of Majlis Perbandaran Pulau Pinang be terminated pursuant to s. 10(4) of the Local Government Act 1976 be quashed by way of *certiorari*; and

(b) that the respondents be ordered to pay damages as assessed to the applicant.

[4] The main issue to be resolved in Application No. 25-2-01-2015 *vide* encl. (4) (2015 case) is whether the applicant in having been appointed as a council member of the second respondent at the sole discretion of the State Authority (fist respondent) by virtue of s. 10(1) of the Local Government Act 1976 (LGA), can be removed as a council member at the sole discretion of the said State Authority pursuant to s. 10(4) LGA without any reasons being assigned and without the right to be heard?

[5] All parties also agreed that the decision made in respect of the removal of the applicant in respect of his position as a councillor of the second respondent would also determine the outcome of the application in respect of his challenge to his removal from the second respondent's permanent committee, ad-hoc meetings and technical meetings and discussions which is the subject matter of Application No. 25-127-11-2014 *vide* encl. (5) (2014 case).

[6] This was by virtue of the fact that a member of a committee and/or sub-committee of the local council automatically ceases to be a member of the said committee and/or sub-committee as soon as he ceases to be a councillor. Indeed the applicant in his written submissions had accepted that this was the correct position.

A **Grounds For Judicial Review**

[7] It has been now been commonly accepted that the grounds for judicial review are as follows:

(i) illegality – that the decision maker had failed to keep strictly within the
B perimeters of his powers;

(ii) irrationality or "*Wednesbury* unreasonableness" – that the decision was "so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it"; and

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(iii) procedural impropriety – that the decision maker failed to observe basic rules of natural justice and or procedural rules.

[8] See *Council of Civil Service Unions and Others v. Minister for the Civil Service* [1985] 1 AC 374 and *Ambank (M) Berhad v. Menteri Sumber Manusia*
D *& Anor And Other Appeal* [2014] 1 LNS 686, the former case for having first recognised these categories and the latter case for having reiterated these principles as the recognised heads of curial intervention in respect of decisions made by public bodies in our jurisdiction. Over the course of time the principle of proportionality has also been added to the above categories
E thus widening the scope of judicial intervention of administrative action by way of judicial review.

Background Facts

[9] The applicant was appointed as a Council Member of the Majlis Perbandaran Pulau Pinang who is the second respondent in the 2014 case,
F for a duration of one year ie, from 1 January 2014 until 31 December 2014.

[10] As a council member, the applicant was appointed to sit on various committees and sub-committees for the year 2014. On 19 September 2014, the applicant, in his capacity as a PAS delegate from Penang cum treasurer of PAS Penang, made a speech at the PAS Annual Muktamar which was held
G in Johor from 18 September 2014 till 20 September 2014. A copy of the transcript of the speech was marked as IZU-5. This was the catalyst which set into motion a chain of events as described below, which necessitated the applicant seeking redress before this court.

H **[11]** On 25 September 2014, the first respondent removed the applicant from sitting in several committees and sub-committees and the first respondent's decision/decisions were delivered to the applicant by the second respondent's letters dated 26 September 2014 and 29 September 2014.

I **[12]** The applicant being dissatisfied with the first respondent's decision filed an application for Judicial Review No. 25-127-11-2014 (2014 case), against the respondents on 14 November 2014 (encl. 5). As soon as the above cause papers were served on the respondents, the second respondent in the

2015 case ie, the Setiausaha Kerajaan Negeri Pulau Pinang, by way of letter dated 21 November 2014 demanded that the applicant withdraw the said 2014 case within forty eight hours or face the consequences. The "consequences" was that a decision would be made in respect of his position as a councillor of the Majlis Perbandaran Pulau Pinang, the second respondent in the 2014 case.

[13] In the event, the applicant refused to comply with the aforesaid demand to withdraw the 2014 case and the second respondent in the 2014 case (Local Council) *via* a letter dated 27 November 2014, informed the applicant that the first respondent ie, Majlis Mesyuarat Kerajaan Negeri Pulau Pinang (State Authority) had in a meeting held on 26 November 2014, decided to terminate the applicant's appointment as a council member pursuant to s. 10(4) of the Local Government Act 1976.

[14] The applicant was not given any show cause letter nor accorded a hearing before the decision to remove him as a councillor was made.

[15] This led to the applicant filing Application No. 25-2-01-2015 *vide* encl. 4 (2015 case) to challenge the decision to remove him as a councillor.

Analysis And Findings

Preliminary Objection

[16] The second respondent in the 2014 case at the outset raised a preliminary objection contending that as the appointment and revocation of the applicant by the State Authority as councillor was at its absolute discretion for a duration of one year ie, from 1 January 2014 until 31 December 2014, and the applicant's appointment was revoked by the State Authority decision dated 26 November 2014, the current application for judicial review in respect of the decision to remove him from the committees and sub-committees (2014 case) was rendered academic.

[17] After hearing submissions on this point I however agree with the submission advanced by learned counsel for the applicant that as the applicant was removed from the committees and the sub-committees during the duration of the applicant's tenure as a council member, and at the time when the applicant was still a council member, this application is not rendered academic. I find that on the authority of *Metramac Corporation Sdn Bhd v. Fawziah Holdings Sdn Bhd* [2006] 3 CLJ 177; [2006] 4 MLJ 113, cited by counsel for the applicant, the outcome of the determination of the applicant's positon as councillor especially in the event that his removal as councillor is held to be wrongful, will affect his rights pertaining to his position and entitlements in the committees and sub-committees in some manner. I therefore dismiss the preliminary objection raised by the second respondent.

The Crux Of The Issue

[18] With regard to the merits of the application, the main issue to be decided here is whether the applicant in having been appointed as a council member of the second respondent in the 2014 case (Local Council) at the sole discretion of the State Authority (first respondent) by virtue of s. 10(1) of the Local Government Act 1976 (LGA), can be removed as a council member at the sole discretion of the said State Authority pursuant to s. 10(4) LGA without any reasons being assigned and without the right to be heard? All references hereinafter to the respondents refer to the respondents in the 2014 case.

[19] Section 10(1) LGA reads as follows:

> 10. Councillors
>
> (1) The local authority shall consist of:
>
> (a) ...
>
> (b) not less than eight and not more than twenty-four other Councillors,
>
> to be appointed by the State Authority.

[20] Section 10(4) reads:

> (4) The seat of a Councillor shall become vacant in the event of his resignation being accepted, if he is disqualified under subsection 34(7) or if his appointment is revoked by the State Authority.

[21] It is clear from the above that s. 10(4) does not prescribe the manner in which such a revocation is to be effected. In other words the section is silent as to the manner of the revocation. There is also no other provision in the LGA that provides for the manner of removal of a councillor appointed by the State Authority.

[22] The letter of appointment dated 3 January 2014 by the second respondent to the applicant and cl. 2(a) therein stipulated as follows "Perlantikan tuan akan luput kepada syarat-syarat yang berikut: (v) Sekiranya pada pendapat Pihak Berkuasa Negeri tuan tidak layak lagi menjadi Ahli Majlis". When translated this means "Your appointment will cease upon the following events: (v) Should in the opinion of the State Authority you are no longer qualified to be a council member".

[23] The necessary corollary to the main issue is therefore whether the right to appoint implies the right to revoke? Put another way it is whether in the absence of any provision which provides for a right to be heard, the common law principle of natural justice that no one is to be condemned unheard can be read into the statute?

Can The Common Law Supply The Omission Of The Legislature?

[24] The applicant in favour of his contention that whether or not an express stipulation is made in a statute, the common law principles of natural justice are to be implied, places strong reliance on the case of *Ketua Pengarah Kastam v. Ho Kwan Seng* [1975] 1 LNS 72; [1977] 2 MLJ 152. The case involved the interpretation of s. 90(4) of the Customs Act, No. 62 of 1967 which reads:

> A senior officer of customs may suspend or cancel any permission granted under this section, if the agent commits any breach of this Act or of any regulation made thereunder or if he fails to comply with any direction given by an officer of customs with regard to the business transacted by the agent.

[25] It was submitted by the applicant that even though s. 90(4) did not provide for any procedure as to the manner in which such suspension and/or cancellation of permission to act as an agent was to take place, it was held by no less a legal luminary than His Lordship Raja Azlan Shah (as His Majesty then was) that:

> The principles of natural justice that no man may be judge in his own cause and that no man may be condemned unheard today play a very prominent role in administrative law ...

[26] His Lordship held further as follows:

> In my opinion, the rule of natural justice that no man may be condemned unheard should apply to every case where an individual is adversely affected by an administrative action, no matter whether it is labelled "judicial", "quasi-judicial", or "administrative" or whether or not the enabling statute makes provision for a hearing.

[27] This principle was enunciated long ago in *Cooper v. Wandsworth Board of Works* (1863) 14 CB (NS) 180, where Byles J said:

> Although there are no positive words in a statute requiring that the party shall be heard, yet the justice of the common law will supply the omission of the legislature.

[28] The applicant thus contended that irrespective of the fact that the enabling provisions do not make any provision for the manner of revocation, as long as a decision can be characterised as an administrative, judicial or quasi-judicial in nature, the rules of natural justice are to apply. The applicant further submitted that there was judicial endorsement of the principle in *Ketua Pengarah Kastam* (*supra*) by the Court of Appeal case of *Darahman Ibrahim & Ors v. Majlis Mesyuarat Kerajaan Negeri Perlis & Ors* [2008] 4 CLJ 538; [2008] 4 MLJ 309 and the Federal Court's decision in *Malaysia Airline System Bhd v. Wan Sa'adi Wan Mustafa* [2015] 1 CLJ 295; [2015] 1 MLJ 757 respectively.

[29] I pause to make the observation here that with regard to the case of *Malaysian Airline System Bhd v. Wan Sa'adi* (*supra*), it concerned a case under s. 20 of the Industrial Relations Act 1967 where the Legislature has made specific provision for the right of a private sector employee who is dismissed from service to be heard and so the decision by the Federal Court on the facts may not necessarily apply with equal force here.

[30] With respect to the decision in the *Ketua Pengarah Kastam*'s case, learned counsel for the second respondent submitted that the decision does not apply in two situations, namely firstly, where the maxim '*expressio unius est exclusio alterius*' applies and secondly, where a person holds office at the pleasure of the appointing authority.

The Application Of The Maxim 'Expressio Unius Est Exclusio Alterius'

[31] Learned counsel for the second respondent placed reliance on the case of *S Kulasingam & Anor v. Commissioner of Lands, Federal Territory & Ors* [1982] CLJ 65; [1982] CLJ (Rep) 314; [1982] 1 MLJ 204, in support of the second respondent of his above contentions and cited the following passages:

> Firstly, the plaintiffs complained that they were not afforded the right of hearing before the authority made the decision to acquire the land. This hearing was referred to by counsel as "the pre-acquisition hearing". It was argued that even if the statute is silent on this right of hearing the defendants misapplied section 3 of the Land Acquisition Act, 1960 by denying the plaintiffs that right of pre-acquisition hearing. Thus it was argued that since the right of property is one of the hall-marks of democracy and the *audi alteram partem* rule is the corner stone of justice the right of hearing only on matters of compensation as provided by the Act is not sufficient.

[32] The court went on to hold as follows:

> As we have said earlier there is express provision in the Act for an inquiry and hearing in respect of the quantum of compensation payable but none with regard to the acquisition itself of land needed for the purposes specified in section 3. This attracts the application of the maxim '*expressio unius est exclusio alterius*' which has been used to exclude natural justice (*Hutton v. Attorney-General* [1927] 1 Ch 427).

[33] As can be seen from the above passages referred to, the issue was whether there was a right under the Land Acquisition Act 1960 to a right to a hearing in respect of the decision by the State Authority to acquire the land. Eusofee Abdoolcader J (as he then was) sitting in the High Court held that although there was an express provision in the particular Act under consideration for the right to an inquiry and hearing in respect of quantum of compensation, the right with regard to hearing of the acquisition of the land itself was not provided for. On this basis His Lordship opined that this would attract the application of the maxim '*expressio unius est exclusio alterius*' which has been used to exclude natural justice.

[34] This maxim '*expressio unius est exclusio alterius*' means 'Express mention of one thing implies the exclusion of another'. Broom in his '*Legal Maxims*' says that no maxim of the law is of more application; and it is never more applicable than in the construction and interpretation of statues. (Broom Leg Max) Whenever a statute limits a thing to be done in a particular form, it necessarily includes in itself a negative, *viz*, that the thing shall not be done otherwise.

[35] The decision of Eusofee Abdoolcader J (as he then was) in *S Kulasingam*'s case was upheld by the Federal Court. I find myself in agreement with the submission of learned counsel for the second respondent that the principle in *Ketua Pengarah Kastam* (*supra*) does not have universal application and that each case must be looked at from the view point of its own particular facts. I find that one of the instances where the principle enunciated in the *Ketua Pengarah Kastam*'s case will not apply is where the maxim '*expressio unius est exclusio alterius*' has application.

[36] Applying the above maxim to the LGA, it can be seen that the right to be heard is expressly provided for in the proviso to s. 16 and ss. 142(2), 143(3) and 144(3). The proviso to s. 16 is under Part III and relates to officers and employees of the local authority which the applicant is not. The proviso states "Provided that the reduction in rank or dismissal from office of any Head of Department or his deputy shall not take effect until such reduction in rank or dismissal has been confirmed by the State Authority:

> Provided further that no officer or employee shall be reduced in rank or dismissed without being given a reasonable opportunity of being heard.

[37] Section 142(2) relates to the right of any person aggrieved with any valuation of rateable value to raise objections in respect thereof and provides that "All objections shall be enquired into and the persons making them shall at such enquiry be allowed an opportunity of being heard either in person or by an authorised agent".

[38] Section 143(3) relates to the right to be heard before any determination is made before the valuation list is confirmed and provides, "The local authority shall not be required to hear and determine all objections to the valuation list before confirming it in accordance with sub-s. (1), and if any objection is not heard and determined before the valuation list is confirmed it shall be heard and determined as soon as possible thereafter and with the like consequences as if it has been heard and determined before the valuation list was so confirmed, and until the objection has been heard and determined the increase in valuation or new valuation objected to shall not be deemed to be in force and the old rates shall continue to be payable".

[39] Finally, s. 144(3) provides, "Any person aggrieved by the amendment of the valuation list on any of the grounds specified in s. 142 may make objection in writing to the local authority not less than ten days before the time fixed in the notice and shall be allowed an opportunity of being heard in person or by an authorised agent".

[40] It will be observed that the above sections expressly make provision for the right to be heard in specific instances. If the Legislature had intended to provide for a right to hearing under s. 10 it would have expressly said so. It is not for this court to read into the provisions something that is simply not there. I therefore find that applying the maxim '*expressio unius est exclusio alterius*' natural justice has been excluded in the case of the revocation of the applicant's position as councillor under s. 10.

[41] Furthermore it has been accepted that natural justice may be excluded if the relevant statute either expressly or by necessary implication excludes natural justice and the courts are not at liberty to ignore the legislative mandate and still read the doctrine into the statute in those circumstances. See *Administrative Law of Malaysia and Singapore* by MP Jain (4th edn) at p. 250.

Was The Applicant Appointed At The Pleasure Of The State Authority?

[42] Learned counsel for the second respondent next contended that the principle in *S Kulasingam*'s case (*supra*) has no application to a situation where a person holds office at the pleasure of the appointing authority. He submits that the LGA envisages that a person who holds the position of councillor does so at the pleasure of the State Authority. In support thereof, the decision of the House of Lords in *Ridge v. Baldwin* [1964] AC 40, was referred to. The issue in *Ridge v. Baldwin* itself concerned the dismissal of a chief constable by an authority known as the watch committee which were endowed with powers of dismissal for misconduct. The decision held that as the chief constable was dismissed on the ground of neglect of duty, the watch committee were bound to observe the principles of natural justice by informing the chief constable of the charges made against him and in giving him an opportunity of being heard and this had not been observed.

[43] In the course of the House of Lords delivering their decision, Lord Reid dealt with cases of dismissal which he held fell into three classes: dismissal of a servant by his master, dismissal from an office held during pleasure, and dismissal from an office where there must be something against a man to warrant his dismissal. The categories described and dealt with can best be encapsulated by alluding to the actual words emanating from Lord Reid himself as follows:

> *The law regarding master and servant is not in doubt. There cannot be specific performance of a contract of service, and the master can terminate the contract with his servant at any time and for any reason or for none*. But if he does so in a manner not warranted by the contract he must pay damages for breach of contract. So the question in a pure case of master and servant does not at all depend on whether the master has heard the servant in his own defence: it depends on whether the facts emerging at the trial prove breach of contract. But this kind of case can resemble dismissal from an office where the body employing the man is under some statutory or other restriction as to the kind of contract which it can make with its

servants, or the grounds on which it can dismiss them. The present case does not fall within this class because a Chief Constable is not the servant of the Watch Committee or indeed of anyone else.

Then there are many cases where a man holds an office at pleasure. Apart from judges and others whose tenure of office is governed by statute, all servants and officers of the Crown hold office at pleasure, and this has even been held to apply to a colonial judge (Terrell v. Secretary of State for the Colonies and Another [1953] 2 QB 482). It has always been held, I think rightly, that such an officer has no right to be heard before he is dismissed, and the reason is clear. As the person having the power of dismissal need not have anything against the officer, he need not give any reason. That was stated as long ago as 1670 in *Rex v. Mayor of Stratford*, 1 Lev. 291, where the Corporation dismissed a Town Clerk who held office *durante bene placito*. The leading case on this matter appears to be the *Darlington School* case (1844) 6 Q.B. 682, although that decision was doubted by Lord Hatherley, L.C. in *Dean v. Bennett*, 6 Ch. App. 489, and distinguished on narrow grounds in *Willis v. Childe*, 13 B. 117. 1 fully accept that where an office is simply held at pleasure the person having power of dismissal cannot be bound to disclose his reasons. No doubt he would in many cases tell the officer and hear his explanation before deciding to dismiss him. But if he is not bound to disclose his reason and does not do so, then, if the Court cannot require him to do so, it cannot determine whether it would be fair to hear the officer's case before taking action. But again that is not this case. In this case the 1882 Act only permits the Watch Committee to take action on the grounds of negligence or unfitness. Let me illustrate the difference by supposing that a Watch Committee who had no complaint against their present Chief Constable heard of a man with quite outstanding qualifications who would like to be appointed. They might think it in the public interest to make the change, but they would have no right to do it. But there could be no legal objection to dismissal of an officer holding office at pleasure in order to put a better man in his place.

So I come to the third class, which includes the present case. There I find an unbroken line of authority to the effect that an officer cannot lawfully be dismissed without first telling him what is alleged against him and hearing his defence or explanation. An early example is *Bagg*'s case (1615) 11 Co. Rep. 93b, though it is more properly deprivation of the privilege of being a burgess of *Plymouth. Rex v. Gaskin* (1799) 8 Durn & East 209, arose out of the dismissal of a Parish Clerk, and Lord Kenyon, C.J. referred to *audi alteram partem* as one of the first principles of justice. *Reg. v. Smith* (1844) 5 Q.B. 614 was another case of dismissal of a Parish Clerk, and Lord Denman, CJ held that even personal knowledge of the offence was no substitute for hearing the officer: his explanation might disprove criminal motive or intent and bring forward other facts in mitigation, and in any event delaying to hear him would prevent yielding too hastily to first impressions. *Ex parte Ramshay* (1852) 21 L.J. 238 is important. It dealt with the removal from office of a county court judge, and the form of the legislation which authorised the Lord Chancellor to act is hardly distinguishable from the form of section 191 which confers powers on the Watch Committee. The Lord Chancellor was empowered if he should think fit to remove on the ground of inability

A or misbehaviour, but Lord Campbell, C.J. said that this was "only on the implied condition prescribed by the principles of eternal justice". In *Osgood v. Nelson*, L.R. 5 H.L. 636, objection was taken to the way in which the Corporation of the City of London had removed the Clerk to the Sheriff's Court, and Lord Hatherley, L.C. said (p. 649):

> B I apprehend, my Lords, that, as has been stated by the learned Baron who has delivered, in the name of the Judges, their unanimous opinion, the Court of Queen's Bench has always considered that it has been open to that Court, as in this case it appears to have considered, to correct any Court, or tribunal, or body of men who may have a power of this description, a power C of removing from office, if it should be found that such persons have disregarded any of the essentials of justice in the course of their enquiry, before making that removal, or if it should be found that in the place of reasonable cause those persons have acted obviously upon mere individual caprice. (emphasis added)

D **[44]** Learned counsel for the applicant who himself placed reliance upon *Ridge v. Baldwin* argued that the applicant is not in the position of a master and servant relationship nor does he contend that the applicant holds office at pleasure. He instead submitted that the applicant falls under the exception to the second of the enumerated categories in *Ridge v. Baldwin* namely those whose tenure of office is governed by statute.

E

[45] The stand of the respondents on the other hand is that the applicant falls under the second of the categories enumerated in *Ridge v. Baldwin viz* that he holds office at the pleasure of the appointing authority. In support of this contention he referred to the case of *Dato' Seri Anwar Ibrahim v. Perdana* F *Menteri, Malaysia & Anor* [1999] 1 CLJ 621 where the court had referred to art. 43(5) of the Federal Constitution which states:

> (5) Subject to Clause (4), Ministers other than the Prime Minister shall hold office during the pleasure of the Yang Di-Pertuan Agong, unless the appointment of any Minister shall have been revoked by the Yang di- G Pertuan Agong on the advice of the Prime Minister but any Minister may resign his office.

[46] It was thus submitted that the position of the applicant under the LGA was similar. I find myself driven to the conclusion that the applicant held the position as councillor at the pleasure of the State Authority. I say so because H of the combined effect of the provisions of s. 10(1)(b) and 10(4) LGA and also cl. 2(a)(v) of the applicant's letter of appointment dated 3 January 2014. Reading these provisions and the intent of the said cl. 2(a)(v) in unison, it is evident that the intention was that the appointment and the revocation/ removal of the applicant as councillor was to be at the sole discretion and pleasure of the State Authority. *Ridge v. Baldwin* is therefore of no assistance I to the applicant.

[47] In respect of the notion with regard to the right to revoke the appointment of the applicant at pleasure, learned counsel for the second respondent referred to the case of *Lai Cheng Lim v. The City Council of George Town, Penang* [1959] 1 LNS 46; [1960] 1 MLJ 15 where the plaintiff was employed by the then City Council of George Town, Penang as a building inspector. Complaints were made by two stall holders that the plaintiff had asked them to pay him for giving permission to carry on their business in stalls put up by them and for not taking action against them under s. 144 of the Municipal Ordinance for erecting unauthorised structures. The complaints were investigated by a committee of inquiry set up by the City Council and after a hearing at which the plaintiff was given opportunity to cross-examine the witnesses and to put forward his case, the committee found that the charge of corruption preferred against him had been fully proved. The finding of the committee was accepted by the City Council and the City Council resolved that the plaintiff be removed from his office. The plaintiff was dismissed from office by a letter dated February 28, 1959 and he thereupon instituted proceedings by a writ of summons issued on March 10, 1959.

[48] The decision was given in favour of the defendants, which held that by virtue of s. 16(5) of the Municipal Ordinance, they were entitled to dismiss the plaintiff at pleasure and without notice and therefore the claim for damages for wrongful dismissal must be dismissed.

[49] It must be noted that although the Municipal Ordinance of the Straits Settlement has since been repealed by the Local Government Act 1976, *Lai Cheng Lim*'s case is of particular relevance as the court was willing to imply the words "holding at the pleasure of" even when the statute itself was silent.

[50] In so holding the court placed reliance upon *McManus v. Bowes & Ors* [1938] 1 KB 98 which had equated the words "to revoke his appointment" with the words "remove him from his office". The court in *McManus* held that based on s. 276 of the Lunacy Act 1890 which provided that the committee may remove any person appointed under the section is the same as a power to revoke such appointment which really amounts to a provision that the person is employed at the pleasure of the committee.

[51] In the reasoning adopted by the court in *Lai Cheng Lim* (*supra*) it was held:

> In the section of the Municipal Ordinance now under consideration before me power is simply given to "remove … from office …". In the absence of such additional words in the section as "at pleasure", it might well be argued that a mere power to remove does not carry with it a right to remove without notice. Similarly, it might be argued that the words in a statute empowering an authority to "revoke" an appointment contained a greater degree of finality than a mere power to remove from office, and

A that whereas the use of the word "revoke" might imply a power to terminate an appointment without notice, the bare use of the word "remove" confers no such power. But the case of *McManus v. Bowes & Ors* [1938] 1 KB 98 entirely disposes of any such argument that might be put forward on those lines. In that case, the plaintiff claimed damages for wrongful dismissal from his appointment as an Assistant Medical Officer
B at a Mental Asylum. Section 276(1) of the Lunacy Act provided that:

> The Visiting Committee of every asylum shall appoint …
>
> (b) a Medical Officer …;
>
> (f) such other officers and servants as they think fit.

C Section 276(3) enacted:

> The Committee may remove any person appointed under this Section.

The defendants in that case contended that the section gave them power
D to remove any person appointed under that section at their pleasure, and that they could without assigning any reason remove any person from the office to which he had been appointed. The learned trial Judge upheld that contention and dismissed the plaintiff's claim. The plaintiff appealed, and his appeal was dismissed by a majority decision, Greer L.J. dissenting. *In the course of his judgment dismissing the appeal Slesser L.J. said that he saw*
E *no reason why the word "remove", in contradistinction to the word "appoint", should not be given its natural meaning which was, as he saw it, to remove at pleasure or to remove at will. He expressed the view that the addition of such words as "at pleasure", "at will" and the like was mere surplusage*. MacKinnon L.J., in the course of his judgment said, at pages 128–129:

F > I think that the section of the Lunacy Act by which the Committee were given power to appoint him and to remove him from his appointment gave them, in effect, power to put an end to his employment at pleasure. *I can see no real difference between the words 'to revoke his appointment' and the words 'remove him from his office'. Quite apart from the mere words themselves, I think that the result of the three cases*
G > *of Brown v. Dagenham Urban District Council [1929] 1 KB 737, in the decision of which I agree with McCardie J's view: Reg v. Darlington School Governors 6 QB 682; and In re Teather 19 LJ (MC) 70, go to show that the meaning of these various phrases used in different Acts is really the same, and that where under section 276 of the Lunacy Act of 1890 it is provided that the Committee may remove any person appointed under this section, that*
H > *is the same as a power to revoke his appointment, and it really amounts to a provision that he is employed at the pleasure of the Committee*.

On the authority of these cases I am, therefore, satisfied that the defendants, by virtue of the powers conferred on them by section 16(5) of the Municipal Ordinance, were entitled to dismiss the plaintiff at pleasure and without notice. I am entirely
I satisfied that in so doing they acted in good faith. (emphasis added)

[52] I find myself persuaded by the submission of learned counsel for the second respondent that the decision in *McManus v. Bowes* (*supra*) is of application in this jurisdiction subject to local circumstances by virtue of s. 3(1) of the Civil Law Act which enables the reception of English common law and equity as at the cut-off date of 7 April 1956.

[53] The second respondent also referred to the case of *Brown v. Dagenham Urban District Council* (1929) 1 KB 737, with regard to the power to 'revoke' an appointment pursuant to s. 5(1) of the Local Government Act 1894, where the court held as follows:

> *I can see no real distinction between a power to dismiss "at pleasure" under s. 189 of the Public Health Act, 1875, and the power to "revoke" an appointment which is given by s. 5, sub-s. 1, of the Local Government Act, 1894. I must, therefore, hold that the defendants could dismiss the plaintiff at any time without notice and without cause from his post as assistant overseer, subject, of course, to the question of bona fides*. Such is the law created by legislation. [His Lordship reviewed certain of the evidence, found as a fact that the plaintiff had not been guilty of misconduct and that the defendants had acted in good faith, if harshly, towards him and continued:] The allegation of dishonesty and of mere vindictiveness, therefore, wholly fails. But counsel for the plaintiff raised yet further points. Among them he argued that the dismissal of the plaintiff as assistant overseer could not stand inasmuch as the defendants gave the plaintiff no hearing before dismissal. That statement of fact is true and I regret it. The defendants should have remembered that, though the dismissal of an official may be a mere incident for the council who dismiss him, it may be a tragedy for the official dismissed. He is left destitute of remedy in the present case and without a right of appeal to any Government Department for restoration to office. *Yet, as Mr. Naldrett correctly points out for the defendants, no right of hearing before dismissal is given by s. 5, sub-s. 1, of the Local Government Act, 1894, or by any other statute. I cannot in law hold that the plaintiff was entitled to any hearing, either before or after dismissal*. Unhappily, *Local Government Board v. Arlidge (1)* is not an aid to the plaintiff. (emphasis added)

[54] Similarly, *Brown v. Dagenham Urban District Council* (*supra*) is of application here by virtue of s. 3(1) of the Civil Law Act 1956. The contention of learned counsel for the applicant that both *McManus* and *Brown* are of no application as they were concerned with wartime legislation cannot be accepted. *Brown* was reported in 1929 while *McManus* in 1938 at which time the wheels of the juggernaut of the Nazi war machine had yet to be put in motion, although the seeds of germination it had sown earlier was beginning to gain momentum to the consternation of all in Europe and beyond.

Whether Power To Appoint Includes The Power To Remove Or Dismiss?

[55] The second respondent further submitted that the expression "revocation" as defined by *Black's Law Dictionary* (8th edn) is 'An annulment, cancellation, or reversal, usu. of an act or power'.

[56] They also referred to *Words, Phrases & Maxims Legally & Judicially Defined By Anandan Krishnan* where in defining the phrase 'revoke an appointment', the author referred to the case of *Lai Cheng Lim v. The City Council of Georgetown, Penang* (*supra*) as to the interpretation thereof as alluded to above, as authority.

[57] In order to further bolster their argument, counsel for the second respondent cited ss. 47 and 94 of the Interpretation Acts 1948 and 1967 which state that the power to appoint includes the power to remove or dismiss as follows:

> Section 47
>
> Power to appoint includes power to remove, etc.
>
> 47. Where a power to make an appointment is conferred by any written law, the appointing authority shall also have power (subject to any limitations or qualifications which affect the power of appointment) to remove, suspend, reappoint or re-instate any person appointed in the exercise of the power.
>
> Section 94
>
> Power to appoint includes power to dismiss
>
> 94. Where a written law confers upon any person or authority a power to make appointments to any office or place, the power shall, unless the contrary intention appears, be construed as including a power to dismiss or suspend any person appointed and to appoint another person temporarily in the place of any person so suspended or in place of any sick or absent holder of such office or place:
>
> Provided that where the power of such person or authority to make such appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, such power of dismissal shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority.

[58] It is therefore clear that unless a contrary intention appears, any written law conferring upon an authority a power to appoint implicitly carries with it a power to remove or dismiss. Following from the above, I agree with the second respondent that as the appointment of the applicant as a councillor and a committee member was made with the approval or consent of the State Authority, the applicant could therefore be removed from the various committees at the direction of the State Authority.

Whether Applicant Entitled To A Right To Be Heard?

[59] The following cases supports the respondents' contention that the applicant may be removed from the various committees and have his appointment as councillor revoked without any right to be heard.

[60] In *Sabdin Ghani v. Musa Haji Aman* [1993] 2 CLJ 109, it was held that as the plaintiff had been appointed to the position of Secretary-General by the President of the Dewan Perniagaan Bumiputera Sabah (the Dewan), the Supreme Council of the Dewan had the right to withdraw or revoke such appointment without giving the plaintiff any prior right to be heard.

[61] In so holding Syed Ahmad Aidid J, held:

> From the practice and the functions, it seems he holds office at the pleasure of the President. The President, by Article 10(6)(a)(ii), is responsible for the duties of the Secretary-General (among others). The President had appointed him and now the President, mid-way through the plaintiff's term as Secretary-General, says "*Sorry, we cannot work together*" (and both had, on 12 August 1991, a "heart-to-heart discussion" or a meeting of differences). The President for some reason or other (which are not materially contested here), says "Why don't you relinquish?". In other words, he means *"Look, I cannot have you as my Secretary-General any longer". He who gives, retrieves.* The President is here backed by the overwhelming decision of the Council. *I am of the opinion that where the Constitution confers power to appoint, the appointing authority should also have the power to remove, to suspend, to re-appoint or reinstate. Compare ss. 47 and 94 of Interpretation Acts 1948 and 1967.*
>
> One can imagine what will happen to all societies if the Courts say "No, Mr. President, you cannot withdraw the appointment. Like it or not, you and the Secretary-General both must stick together". With the misunderstanding or enmity or on any other basis, the relationship sours and the society suffers. I cannot accept that. *In my opinion, the President offers and he now retracts. He is entitled to do so because the overall responsibility for the success and achievement of the Society (or Dewan in this case) rests with the President* ... The plaintiff here, it must be stressed, was appointed by the President or "dilantik oleh Yang Di-Pertua". In several other organisations, the holder of such a post ... or Honorary Secretary is elected and he is assisted by an Executive Secretary who is a paid employee. *In the instant case, however, the plaintiff was not elected and neither was he an employee, and this makes his position substantially different from those cases cited earlier.*
>
> ...
>
> On the evidence given on affidavits, the statements made from the bar and upon consideration of the facts and legal principles, I am not inclined to granting the two declarations and the injunction which plaintiff seeks and accordingly I dismiss plaintiff's originating summons dated 28 August 1991. I make no order as to costs. (emphasis added)

[62] In *Haji Ariffin v. Government of Pahang* [1968] 1 LNS 45; [1969] 1 MLJ 6, the Federal Court by a majority decided that the Pahang State Government had the right to revoke the appointment of the plaintiff (as a kathi) where the plaintiff was not accorded any right to be heard prior to such revocation.

[63] Suffian FJ (as he was then) held:

> To sum up – in my judgment, the Pahang State Government has the right to stipulate that a Kathi may be appointed subject to termination of service on notice or payment of salary *in lieu*. Such a condition is not inconsistent with the Constitution which indeed says that a member of the Pahang public service holds office at the pleasure of the Ruler. If it is inconsistent, then, notwithstanding such a condition, the Ruler may terminate the Kathi's appointment without notice or compensation; it does not mean that the Ruler may not terminate his service on notice or payment of salary *in lieu*. The exercise by the Ruler of such a contractual right to terminate is the same as the exercise by a private employer of a right to terminate the service of his employee under a contract containing a similar condition. While it is true that the Kathi whose service is terminated under such a contract has lost a steady job, the termination does not involve a penalty or punishment so as to make it a dismissal within the meaning of article 135(2) of the Constitution and it is not, therefore, necessary first to give him a reasonable opportunity of being heard. Dismissal as used in the public service is not any termination of service – it has a special meaning and involves a penalty or punishment.

[64] It should be noted that s. 35 of the Administration of the Law of the Religion of Islam Enactment 1956 of Pahang stated:

> 35(1) The Ruler may, after consultation with the Majlis, appoint … any suitable persons to be Kathi for such areas as he may prescribe, and may at any time revoke any such appointment. All such appointments shall be notified in the *Gazette*.
>
> (2) The Ruler may, on the advice of the Majlis, from time to time grant or revoke letters of appointment to any … Kathi and may by the terms of any such letter restrict the exercise of any powers which would otherwise be conferred on such … Kathi by this enactment or by any other written law.
>
> (3) Save as aforesaid, the jurisdiction, authority and powers of any … Kathi shall be such as are conferred by this enactment or by any other written law.

[65] Learned counsel for the second respondent continued to emphasise the point made when he referred to *Universiti Teknikal Malaysia Melaka lwn. Prof Madya Md Noah Jamal* [2014] 8 CLJ 1034 where the letter of appointment of the Deputy Dean of a faculty in the university had expressed that his appointment could be terminated at any time. His subsequent termination without giving him the right to be heard was upheld by the Court of Appeal.

[66] Still further, learned counsel for the second respondent referred to an article appearing in the 6 October 2015 issue of "The Sun Daily" where Professor Gurdial Singh Nijar had said that the then Honourable Attorney General having held his position at the pleasure of His Majesty The Yang Di-Pertuan Agong who acts upon the advice of the Right Honourable Prime Minister, could be removed without giving him the right to be heard.

[67] The above cases and article endorse the position that where the appointing authority has the power to appoint, it has the power to also retract for no other reason than the practical consideration that the circumstances are such that the relationship has simply broken down and that such a power was necessary in order for the appointing authority to continue discharging its duties in the manner expected of it.

[68] Therefore, notwithstanding the argument advanced by learned counsel for the applicant that the refusal of the applicant to succumb to pressure from the second respondent to withdraw the judicial review application filed to challenge the first respondent's decision to remove him from the committees does not amount to the applicant being rendered unfit to be a council member, as the applicant was appointed and held his position as councillor at the pleasure of the State Authority, his removal was also at its sole discretion.

Policy Considerations

[69] Finally, learned counsel for the second respondent submitted that on pure policy based grounds given the present framework of the Government, both the Federal Government and the various State Governments are formed based on general elections which are constitutionally held every five years (or less). As there are no longer any local Government elections, all councillors in the various local authorities throughout this country are appointed by the respective State Authorities/State Governments.

[70] Local councillors are normally appointed for a fixed period/term of one year as was the case here and may be reappointed at the discretion of the State Authority. State Governments however may and could be dissolved at any point of time. Should there be a change of State Government mid-way through the appointment period of a councillor, the councillor surely cannot insist on continuing as a councillor until his term expires as the new State Government would have the absolute discretion to appoint new councillors and in all probability would appoint new councillors when forming the State Government. Therefore, it was argued as the councillor's position are at the pleasure of the State Government, the councillor's appointment may be revoked at will without any reason or without any need to give the councillor any right to be heard.

[71] I agree with the contention of learned counsel for the second respondent that should the position be otherwise this would ensue in utter chaos and mayhem to the practical workings and administration of State and Local Governments in this country.

[72] The applicant also submitted that although the first respondent has the powers to appoint and remove councillors, they contend that the powers of the first respondent to remove the applicant from sitting in the committees and sub-committees lie with the second respondent instead. In so arguing they rely on s. 28 of the Local Government Act 1976 which reads as follows:

A Section 28 - Appointment of Committees

> Every local authority may from time to time appoint Committees, either of a general or special nature, consisting of a Chairman and such number of Councillors and such other persons as the local authority may think fit, for the purpose of examining and reporting upon any matter or
B performing any act which in the opinion of the local authority would be more conveniently performed by means of a Committee, and may delegate to any Committee such powers, other than the power to raise money by rates or loans, as it may think fit, and may fix the quorum of any such Committee.

C **[73]** In this respect I agree with the submissions of the second respondent that from a plain reading, s. 28 of the Local Government Act 1976 merely relates to the right of the local authority to form committees. Further, in the light of s. 10(1) and (4) of the Local Government Act 1976 respectively, I hold that the removal of councillors from committees also fall within the purview of the State Authority.

D *Courts Do Not Probe Into The Merits Of A Discretionary Decision*

[74] It is also an accepted proposition that the courts do not inquire into the merits or otherwise of a discretionary decision. The authority for this is the case of *Pendaftar Pertubuhan v. Datuk Justine Jinggut* [2013] 2 CLJ 362
E which held as follows:

> Now, even if the discretion is an absolute one, the basic proposition is that "the courts do not probe into the merits of a discretionary action or decision. The courts will not question a discretionary decision on such grounds as to whether it was correct or proper, right or wrong. Also the
F courts will not substitute its own discretion for that of a concerned authority". (see the commentary by MP Jain in *Administrative Law of Malaysia and Singapore* 2nd, edn, p.340).

Summary Of Findings And Decision

[75] In summary, I therefore find the following;

G

(a) Section 10 of the LGA containing as it does a power to appoint a councillor also implies with it a power to revoke such appointment;

(b) A local councillor in the position of the applicant under the current framework of the LGA holds office at the pleasure of the appointing
H authority *viz*. the State Authority;

(c) As there is a power to revoke such an appointment, it is also reasonably implied that such appointments are made at the pleasure of the appointing authority *viz*. the State Authority;

I (d) As such his appointment may be revoked without giving him the right to be heard;

(e) Applying the maxim "*expressio unius est exclusio alterius*" which means the expression of one thing is the exclusion of the other, the Local Government Act 1976 although containing various express provisions regarding the right to be heard in respect of various other matters, remains silent as to the right to be heard in respect of the revocation of a councillor or removal as a committee member. This would mean that Parliament intended that no such right was to be made available to a councillor; and

(f) The maxim "*expressio unius est exclusio alterius*" is a ground for the exclusion of natural justice.

[76] For the reasons abovestated I therefore find that the decision to revoke the appointment of the applicant as councillor was not a case involving procedural impropriety nor did it infringe the principles of natural justice as the same was excluded for the reasons given above. I also do not find the decision to remove the applicant to be an illegal decision or tainted as being unreasonable in the *Wednesbury* sense. Similarly as the applicant has been legitimately removed as a councillor I also find that the decision to remove him from all the second respondent's permanent committees, ad hoc meetings and all technical meetings/discussion and that all of his funds be frozen was not tainted with procedural impropriety nor did it infringe the principles of natural justice or was illegal or tainted as being unreasonable in the *Wednesbury* sense. I therefore dismiss both these applications namely, encl. (5) and encl. (4) respectively filed by the applicant with costs.